

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CR-3148 of 2017 (O&M)
Date of decision:21.10.2022

Gurdeep Kaur (since deceased) through her legal representatives

..Petitioner

Versus

Kaur Singh Grewal and others

..Respondents

CORAM: HON'BLE MR. JUSTICE ANIL KSHETARPAL

Present: Mr. Kanwaljit Singh, Sr. Advocate, with
Mr. Vaibhav Sehgal, Advocate
for the petitioner(s)

Mr. D.S.Sobti, Advocate and
Ms. Jasleen Chahal, Advocate,
for respondent no.1.

Mr. Namit Gautam, Advocate
for respondent no.2.

ANIL KSHETARPAL, J(Oral)

An application filed by the plaintiff (respondent no.1) for permission to lead secondary evidence of various documents has been allowed by the trial court.

The learned senior counsel representing the defendant contends that the application for permission to lead secondary evidence could not be allowed unless the plaintiff proves the existence of the documents and its subsequent loss.

After discussing the various provisions of the Civil Procedure Code, 1908, the Indian Evidence Act, 1872 and the High Court Rules and Orders, this court in **Vinod Kumar vs. Satbir Singh (Civil Revision No.2575 of 2020, decided on 03.03.2021)** and **Madan vs. Shankar and others (RSA-327-1989 decided on 01.11.2018)** has held that there is no such provision in

any of the said laws for filing an application for permission to lead secondary evidence. The Bombay High Court, on 10.11.2017, while deciding Civil Revision application No.82 of 2016, directed the trial courts to stop the practice of requiring applications for permission to lead secondary evidence, particularly when it is not supported by any provision of law. The Hon'ble Supreme Court in *Dhanpat vs. Sheo Ram, 2020 SCC Online SC 606*, has also held on the similar lines.

Keeping in view the aforesaid position, the revision petition is disposed of while directing the trial Court to permit the plaintiff to lead evidence. After the evidence has been led, the Court shall examine whether such evidence is primary or secondary. If it is found that the evidence led is secondary, then the Court shall further examine whether such evidence fulfills the requisites of Section 65 of the Indian Evidence Act, 1872.

All the pending miscellaneous applications, if any, are also disposed of.

October 21, 2022

(ANIL KSHETARPAL)
JUDGE

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<i>Whether speaking/reasoned</i>	:	<i>Yes/No</i>
<i>Whether reportable</i>	:	<i>Yes/No</i>